

1 REMARKS

2 Status of the Claims

3 Claims 1-34 are pending in the application, Claim 1, 12, 19, and 29 having been amended to  
4 more clearly distinguish the claimed subject matter over the cited art.

5 Brief Summary of Telephone Interview

6 On November 09, 2006, during a telephone interview, applicant's attorney and Examiner  
7 Sharon discussed his current Office Action rejections under 35 U.S.C. § 101 and 35 U.S.C. § 102  
8 over Claim 1.

9 With respect to the Examiner's rejections under 35 U.S.C. § 101, the Examiner indicated that  
10 Claim 1 needed to recite concrete and tangible results and to please provide a citation to the reference  
11 in the specification that supports these amendments. The Examiner suggested that step (d) could be  
12 amended to recite "displaying or printing results..." In the alternative, the Examiner suggested that  
13 step (d) could be amended to recite what the results comprised. Accordingly, applicant has amended  
14 the claims to recite "...evaluate the flight characteristics *results* of the design..." and "...in response  
15 to graphic images on a display ..." and "...in a flight simulator program ..." as discussed below in  
16 order to clarify the tangible and concrete results.

17 With respect to the Examiner's rejections under 35 U.S.C. § 102, the Examiner indicated that  
18 it was not clear in the claims that the user could evaluate the design of the aircraft in real-time.  
19 Accordingly, applicant has amended the independent claims to recite that the user is enabled to  
20 evaluate the flight characteristics in real-time.

21 The Examiner indicated that it was not clear in the claims that the flight model data files are  
22 compatible with a flight simulator program. Accordingly, applicant has amended the independent  
23 claims to recite that the flight model data files are compatible with the flight simulator program.

24 The Examiner also indicated that Enclosures B, C, and D also read on Claim 1 because they  
25 allow modification of parameters. Applicant's attorney has provided a second Declaration by the  
26 inventor that clarifies the differences between the recited subject matter of the claims and the cited  
27 art.

28 Applicant's attorney would like to again thank Examiner Sharon for his time and willingness  
29 to discuss these issues during the telephone interview. This Telephone Interview was helpful in  
30

1 advancing the prosecution of this case, by clarifying both the Examiner's and applicant's positions  
2 regarding the claim language.

3 Amendment to the Drawings

4 FIGURE 13 has been amended to correct a typographical error in a label.

5 Claims Rejected under 35 U.S.C. § 101

6 The Examiner respectfully submits that the claimed invention does not recite a concrete,  
7 useful, tangible result. First, the Examiner explains that independent Claims 1, 12, 19, and 29 and  
8 their respective dependent claims merely enable the user to evaluate the result, and the user does not  
9 necessarily have to do so. Second, the Examiner explains that since the independent claims recite  
10 "enabling the user to input" parameters or data, that the user again does not necessarily have to do so.  
11 The Examiner concludes that the claimed invention does not necessarily produce a result. Third, the  
12 Examiner explains that the result of the "user evaluation" takes place in the mind of the user and not  
13 in the claimed invention. Applicant respectfully disagrees with each of these observations for the  
14 following reasons.

15 With respect to the Examiner's first point, applicant notes that the result of the claimed  
16 invention is a plurality of flight model data files (or flight model data) that are compatible with a  
17 flight simulation program as recited in step (c) of independent Claims 1 and 12, and in  
18 subparagraph (d)(iii) of independent Claim 19 as amended, and in subparagraph (d)(iii) of  
19 independent Claim 29 as amended. The plurality of flight data files (flight data) are produced by  
20 processing a plurality of parameters input by a user to generate a plurality of aerodynamic  
21 coefficients. The aerodynamic coefficients and input parameters are included in the plurality of flight  
22 data files (flight data), so that the plurality of flight data files represent a design for an aircraft  
23 produced in response to the user's input of the parameters. More importantly, the plurality of flight  
24 data files (flight data) are compatible with a flight simulation program to enable the user to test fly  
25 the aircraft design thus created. Applicant respectfully submits that producing a plurality of flight  
26 data files (or flight data) that are compatible with a flight simulator, and which can be used by the  
27 user to evaluate flight characteristics, is a useful result. Applicant has clarified that this result is  
28 useful by amending the independent Claims where necessary to recite "enabling a user to evaluate the  
29 flight characteristics results of the design in *real-time* by interactive, simulated flying of the aircraft  
30 *as represented in graphic images on a display*, within in *a flight simulator program*." Support for

1 these amendments is provided in the specification on page 10, lines 23-24, flight simulator 32 of  
2 FIGURE 2, and page 8, lines 22-26.

3 With respect to the Examiner's second point, please note that unless the plurality of  
4 parameters are input by the user, no aerodynamic coefficients are produced and therefore, no flight  
5 model data files are produced for the design created by a user. Without flight model data files that  
6 are compatible, a flight simulator can NOT be utilized to evaluate the flight characteristics results of  
7 the design. Thus, it is necessary that the user input the plurality of parameters and the step is not  
8 optional.

9 With respect to the Examiner's third point that a user evaluation is subjective based on the  
10 user's perception and not in the claimed invention, please note that no user evaluation can even be  
11 performed for the aircraft design unless the flight simulation program is utilized to provide the  
12 graphic images on the display that the user perceives to carry out the evaluation. Even if the result of  
13 the claim was to enable such a subjective evaluation, that result is clearly tangible, because it relies  
14 upon a visual experience of the user while evaluating the design.

15 Before maintaining this rejection of the claims under 35 U.S.C. § 101, it is respectfully  
16 suggested that the Examiner discuss the rejection of applicant's claims, with his Supervising  
17 Examiner, since it seems entirely unjustified. Applicant's attorney is aware of the current directive in  
18 the U.S. Patent and Trademark Office to ensure that computer software-related claims recite a  
19 tangible result, but it is very clear that each independent claim in this application already does so.

20 Rejection of Claims 1-34 under 35 U.S.C. § 102(b)

21 The Examiner has rejected Claims 1-34 under 35 U.S.C. § 102(b) based upon a public use or  
22 a sale of the invention by Microsoft Corporation, with reference to Microsoft Flight Simulator 2000  
23 (FS2000) and Microsoft Combat Flight Simulator 2.0 (CFS 2), because the Examiner asserts that  
24 FS2000 and CFS2 contain the features recited in the claims, according to the first Declaration and  
25 Enclosures B, C, and D of the Office Action dated June 27, 2006.

26 The Examiner has also rejected Claims 1-34 under 35 U.S.C. § 102(b) as being anticipated by  
27 Enclosure C of the Response filed June 27, 2006. Applicant respectfully disagrees. In the Table that  
28 is included in the attached (second) Declaration of the Inventor, additional information is provided  
29 that indicates how specific features in FS2000 and CFS 2 differ from the recitation of applicant's  
30 claims.

1 In the interest of reducing the complexity of the issues for the Examiner to consider in this  
2 response, the following discussion focuses on independent Claims 1, 12, 19, and 29. The  
3 patentability of each dependent claim is not necessarily separately addressed in detail. However,  
4 applicant's decision not to discuss the differences between the cited art and each dependent claim  
5 should not be considered as an admission that applicant concurs with the Examiner's conclusion that  
6 these dependent claims are not patentable over the cited references. Similarly, applicant's decision  
7 not to discuss differences between the prior art and every claim element, or every comment made by  
8 the Examiner, should not be considered as an admission that applicant concurs with the Examiner's  
9 interpretation and assertions regarding those claims. Indeed, applicant believes that all of the  
10 dependent claims patentably distinguish over the references cited. However, a specific traverse of the  
11 rejection of each dependent claim is not required, since dependent claims are patentable for at least  
12 the same reasons as the independent claims from which the dependent claims ultimately depend.

13 Patentability of Independent Claims 1, 12, 19, and 29 over Enclosure B (i.e., FS2000)

14 Significant differences exist between independent Claims 1, 12, 19, and 29, because FS2000  
15 does NOT teach or suggest applicant's claim recitation of *producing* a plurality of flight model data  
16 files as generally recited in step (c) of independent Claim 1 and as recited in subparagraph (d)(iii) of  
17 independent Claims 19 and 29 and does NOT teach or suggest the functionality of an aerodynamic  
18 coefficients generator as recited in step (b) of independent Claim 12.

19 The Examiner explains that all of the independent claims recite "enabling a user to create or  
20 modify a design" as well as "enabling the user to input a plurality of parameters or data" and that  
21 using the broadest reasonable interpretation of the claims, the claims indicate that a user can merely  
22 modify a design.

23 More specifically, the Examiner first asserts that because applicant's Declaration on page 3  
24 states "...FS2000 included the FSEDIT application, although the FDE included only one section that  
25 allowed certain scalars to be changed by a user positioning a slider," the Examiner has determined  
26 that this teaching reads on the claim recitation because it provides for modifying a design. Second,  
27 the Examiner asserts that applicant's (first) Declaration on page 3 states "FS2000 lacked the ability to  
28 create flight model data files from scratch" and notes that the claims recite "enabling a user to create  
29 or modify a design." Third, the Examiner asserts that because applicant's (first) Declaration on  
30 page 3 states "FS2000 lacked the ability to create flight model data files from scratch that are

1 compatible with the flight simulator as shown in FIGURE 4 of the above-identified application...”  
2 that applicant is arguing about features that are not in the claims. The Examiner asserts that “the  
3 flight simulator as shown in Figure 4 in the above-identified application” is not recited in the claims.

4 Applicant respectfully draws the Examiner’s attention to step (d) of independent Claims 1 and  
5 12, which recite a “*flight simulation program*” (an example of which is flight simulator 32 of  
6 Figure 4). In addition, applicant has amended subparagraph (d)(iv) of independent Claims 19 and 29  
7 to generally recite “enabling a user to evaluate the flight characteristics results of the design in real-  
8 time *in a flight simulation program* by simulated flying of the aircraft...” (emphasis added).

9 Fourth, the Examiner asserts that because applicant’s (first) Declaration on page 3 states  
10 “...and a user was unable to evaluate this custom design in real-time simulated flight within FS2000,  
11 based on a point of view of a pilot flying the aircraft,” is interpreted as referring to the inability of  
12 FS2000 to create flight model data files “from scratch,” therefore, there is no ability to evaluate them  
13 in FS2000. However, the Examiner notes that the claim recitation does not require evaluating  
14 “custom” flight model data files that were created “from scratch.”

15 In addition to the clarifying amendments described above under the Brief Summary of  
16 Telephone Interview, applicant also respectfully points out that with the above amendment, all of  
17 independent claims 1, 12, 19, and 29 recite that a *plurality of flight model data files are produced*.  
18 As described in the (first) Declaration, a plurality of flight model data files were NOT *produced* in  
19 earlier versions FS2000 and CFS 2. In addition, as described in the (first) Declaration, the earlier  
20 FS2000 and CFS 2 did NOT include an aerodynamic coefficients generator such as shown in  
21 FIGURE 2 of the present application, and thus, the functionality recited in step (b) of independent  
22 Claim 12 could not be carried out by FS2000 or CFS 2.

23 Patentability of Independent Claims 1, 12, 19 and 29 over Enclosure C and D (i.e., FS2000 & CFS 2)

24 Significant differences exist between the recitation of independent Claims 1, 12, 19, and 29  
25 and the prior art cited, because CFS 2 does NOT teach or suggest applicant’s claim recitation of  
26 *producing a plurality of flight model data files*, as generally recited in step (c) of independent  
27 Claims 1 and 12, and as recited in subparagraph (d)(iii) of independent Claims 19 and 29, and does  
28 NOT teach or suggest using an aerodynamic coefficients generator, as recited in step (b) of  
29 independent Claim 12.

30 The Examiner also explains that because page 3 of applicant’s (first) Declaration states “As in

1 FS98 and FS2000, Enclosure C explains how a user can import new aircraft and add or change values  
2 in the aircraft.cfg file” in the first paragraph, page 1 and because Enclosure C teaches that a user can  
3 import new aircraft and add or change values in the associated aircraft.cfg file to modify aircraft  
4 behavior, performance and damage, Enclosure C reads on the recitation of the claims because it  
5 provides for modifying a design. However, as described in the (second) Declaration, although a user  
6 was enabled to manually edit some additional combat parameters in the AIRCRAFT.CFG file, CFS 2  
7 also lacks an aerodynamic coefficients generator (e.g., any equivalent to aerodynamic coefficients  
8 generator module 26 shown in FIGURE 2) that produces the flight model data files such as the  
9 configuration file (AIRCRAFT.CFG file), and a binary file (AIRCRAFT.AIR file) from scratch.  
10 Therefore, for reasons similar to those given in applicant’s traversal of the Examiner’s rejection of  
11 independent Claims 1, 12, 19, and 29 over Enclosure B, independent Claim 1, 12, 19, and 29 also  
12 distinguish over Enclosures C and D.

13 Thus, the rejection of independent Claims 1, 12, 19, and 29 over the cited art should be  
14 withdrawn, because the cited art neither teaches nor suggests all of applicant’s claim recitation. Since  
15 dependent claims include all of the elements of the independent claim from which the dependent  
16 claims ultimately depend, dependent Claims 2-11, Claims 13-18, Claims 20-28 and Claims 30-34 are  
17 patentable for at least the reasons discussed above in regard to independent Claims 1, 12, 19, and 29.  
18 Accordingly, the rejection of the dependent claims under 35 U.S.C. § 102(b) should also be  
19 withdrawn.

20 In view of the Remarks set forth above, it will be apparent that the claims in this application  
21 define a novel and non-obvious invention. The application is in condition for allowance and should  
22 be passed to issue without further delay. Should any further questions remain, the Examiner is  
23 invited to telephone applicant’s attorney at the number listed below.

24 Respectfully submitted,

25  
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